

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
GORGE RIVERA
88 MORICHES AVENUE
Mastic, NY 11950

08 Civ. 4853 (RWS)

Plaintiff,

ANSWER

-against-

**DEFENDANT DEMANDS
A BIFURCATED TRIAL**

METRO-NORTH COMMUTER RAILROAD
347 Madison Avenue
New York, New York 10017

Defendant.

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Defendant, Metro-North Commuter Railroad (hereinafter referred to as Metro-North”), by its attorney, Richard K. Bernard, Esq., as and for its Answer to the Plaintiff’s Complaint, responds as follows:

1. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph 2 of the Complaint.
2. Defendant admits the allegations contained in paragraph 1, 3, 4 and 6 of the Complaint.
3. Defendant denies the allegations contained in paragraph 5, 7, 8 and 9 of the Complaint.
4. Defendant neither admits nor denies the allegations a contained in paragraph 10 of the Complaint. Defendant demands a bifurcated trial.

AFFIRMATIVE DEFENSES

5. As and for a first Affirmative Defense, or as a defense in mitigation of damages, the Defendant claims that if the Plaintiff was injured as alleged in Plaintiff's Complaint then said injuries were caused, in whole or in part, by reason of Plaintiff's own negligence.
6. As and for a second Affirmative Defense, the Defendant claims that the Plaintiff's cause of action is barred by the applicable statute of limitations.

WHEREFORE, Defendant demands judgment dismissing Plaintiff's Complaint, together with costs and disbursements and such other and further relief as to this court seems just and proper.

Dated: New York, New York
May 30, 2008

RICHARD K. BERNARD
GENERAL COUNSEL

By: 
JESSE A. RAYE

Attorneys for Defendant
Metro-North Commuter Railroad
347 Madison Avenue - 19th fl.
New York, New York 10017
(212) 340-2538 (JAR-2009)

TO: Robert W. Godwin, Esq.
Law Offices of Kantor & Godwin, PLLC
5800 Main Street
Williamsville, New York 14221
(716) 626-0404

[illegible]

Nellie Foreman-Ramos, being duly sworn, deposes and says:

I am not a party to the action, am over 18 years of age and reside in New York,
New York.

On May 30, 2008, I served a true copy of the annexed Answer by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

TO: Robert W. Godwin, Esq.
Law Offices of Kantor & Godwin, PLLC
5800 Main Street
Williamsville, New York 14221
(716) 626-0404

Nellie Foreman-Ramos

Sworn to before me this
 ___ day of May, 2008

NOTARY PUBLIC

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RULE 7.1 STATEMENT

**METRO-NORTH COMMUTER RAILROAD
347 Madison Avenue
New York, New York 10017**

Defendant.

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METRO-NORTH COMMUTER RAILROAD COMPANY (“Metro-North”) is a public benefit corporation. *See* N.Y. Pub. Auth. L. §§1263 (1) 1264(2), et seq. (McKinney 1999) Accordingly, Rule 7.1 does not apply to Metro-North.

DATED: NEW YORK, NEW YORK
May 30, 2008

RICHARD K. BERNARD
GENERAL COUNSEL

By: _____
Jesse A. Raye [JAR/2009]
Attorney for Defendant
347 Madison Avenue, 19th Fl.
New York, NY 10017
(212) 340-2538

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